REMARKS

This is in response to the Office Action mailed on November 20, 2007. Claims 1-10, 12, 14-22, 35-39, and 41-49 were pending in the application, and the Examiner rejected all claims. With the present response, claims 1, 20, 22, 35, and 49 are amended, claims 17, 18, and 38 are cancelled, claims 50-51 are new, and the remaining claims are unchanged. Consideration and allowance of all pending claims are respectfully solicited in light of the following comments.

Claim Rejections - 35 U.S.C. § 103

On page 2 of the Office Action, the Examiner rejected the pending claims under 35 U.S.C 103(a) as being unpatentable over Ting U.S. Pat. Application No. 2002/0174344 (hereinafter "Ting") in view of Michener et al. U.S. Pat. No. 7,028,191 (hereinafter "Michener"). For the reasons discussed below, Applicant respectfully contends that all claims are patentable over the cited references considered independently or in combination.

Claim 1:

On pages 2-3 of the Office Action, the Examiner states that Ting paragraph 13 discloses the claim 1 limitation of "pre-establishing an encryption relationship between a computing device and the biometric device." Claim 1 has been amended to further limit this limitation by reciting that in pre-establishing that "the computing device and biometric device include separate but related encryption components and the biometric device encryption component is implemented as firmware and decrypts information encrypted by the computing device encryption component." This amendment is supported throughout the application as originally filed such as in the specification on page 15,

lines 10-21, that teaches separate but related encryption components, and also in the specification on page 14, lines 21-27, that teaches implementing encryption devices as firmware and also discusses specific embodiments of firmware such as flash memory.

Applicant respectfully contends that this additional limitation to the "pre-establishing" step is patentable over the cited references. Ting paragraph 13, the reference previously cited as making the "pre-establishing" step unpatentable, does not disclose these additional limitations. Ting paragraph 13 only discloses that the client includes a plug-in configured to receive a request for the candidate set of biometric data, to obtain the set of data, and to transmit the data in response to a request. Neither Ting paragraph 13, nor any other portion of Ting or Michener, discloses pre-establishing a relationship that includes separate but related encryption components. The cited references also do not disclose the biometric device encryption component implemented as firmware.

Claim 1 has also been amended to include the limitations of "utilizing the computing device encryption component", "from the biometric device", and "wherein pre-establishing, generating, maintaining, encrypting, and receiving enhance the security of informational interactions between the biometric device that collects the collection of biometric data and the computing device that selectively utilizes the collection of biometric data." These limitations are supported throughout the application as originally filed such as in the specification on page 17, line 18, to page 19, line 2.

Applicant respectfully contends that these amendments considered together make claim 1 clearly patentable over

the cited references. Very generally speaking, in claim 1, the biometric device that collects a collection of biometric data has an encryption component implemented as firmware that is related to the encryption component in the computing device that selectively utilizes the collection of biometric data.

In both the Ting and Michener systems, biometric information is collected by a large number of client computers and is sent to a general use, large scale server. The large scale server in each system that uses the biometric information does not have encryption components that are related to each of the large number of clients that collect and send the biometric information. It also would not be obvious to modify Ting and Michener to include such a limitation because that would either make it more difficult or impossible to add clients to the systems that they disclosed.

For at least the reasons discussed above, Applicant respectfully contends that claim 1 is patentable, and respectfully requests that the rejection be withdrawn.

Claim 2:

Claim 2 is dependent on claim 1 and adds the limitation that the steps of claim 1 be performed in the consecutive order of pre-establishing, generating, maintaining, encrypting, and receiving. On page 4 of the Office Action the Examiner states that Ting, paragraphs 30, 36, and 39 disclose this limitation. Applicant respectfully contends that Ting does not disclose the limitation, and that claim 2 is patentable.

First, Ting does not disclose all of the process steps of claim 1. Applicant's explanation of that is discussed above in regards to claim 1. The Examiner seems to

acknowledge this on page 3 of the Office Action. The Examiner only uses Ting to reject the steps of pre-establishing, generating, maintaining, and receiving. The Examiner uses the separate Michener reference to reject the step of encrypting. In light of Ting not disclosing all of the steps, Applicant does not understand how Ting could possibly disclose the particular order of those steps.

Second, even if Ting and Michener did in combination disclose all of the elements (which of course Applicant contends that they do not), the Examiner has failed to meet the burden of proof of rejecting claim 2. Under MPEP 2143.01, an Examiner must show that there is a suggestion or motivation to combine the references as recited in the claim under examination. In this case, the Examiner has not met this burden of proof. The Examiner has not shown why one would combine Ting and Michener in any particular order, let alone in the order recited in claim 2.

For at least the reasons discussed above, Applicant respectfully contends that claim 2 is patentable, and respectfully requests that the rejection be withdrawn.

Claims 3-10, 12, 14-16, and 19-22:

Applicant respectfully contends that claims 3-10, 12, 14-16, and 19-22, are patentable at least based on their dependence upon patentable independent claim 1. Applicant respectfully requests that the rejections be withdrawn and the claims allowed.

Claim 35:

Claim 35 has been amended to include the limitation previously presented in its dependent claim 38. Applicant respectfully contends that claim 35 is patentable at least because the limitation previously presented in claim 38, and now present in claim 35, is patentable.

Claim 35 recites in part, a series of steps comprising first receiving, second generating, third encrypting, fourth transmitting, fifth receiving, sixth decrypting, and seventh determining, wherein first, second, third, fourth fifth, sixth, and seventh respectively correspond to the consecutive order of the series of steps.

On page 10 of the Office Action, in rejecting the former claim 38, now claim 35 limitation, the Examiner only states that Michener discloses the consecutive steps of generating, encrypting, and receiving. The Examiner does not state anything about the steps of transmitting, decrypting, and determining. Under MPEP 2143.03, in rejecting a claim, the Examiner must show that all claim steps are disclosed. The Examiner has failed to meet this burden by not addressing the claim 35 steps of transmitting, decrypting, and determining.

Additionally, similar to Applicant's claim 2 argument, even if the Examiner had shown all of the elements present in the references, the Examiner still failed to show a suggestion or motivation to combine the limitations in the order recited, as is required by MPEP 2143.01.

For at least the reasons discussed above, Applicant respectfully contends that claim 35 is patentable, and respectfully requests that the rejection be withdrawn.

Claims 36-37, 39, and 41-48:

Applicant respectfully contends that claims 36-37, 39, and 41-48, are patentable at least based on their dependence upon patentable independent claim 35. Applicant respectfully requests that the rejections be withdrawn and the claims allowed.

Claim 49:

Claim 49 has been amended to include several additional limitations. This amendment is supported throughout the application as originally filed such as in FIGS. 4, 5, 7, and the accompanying text in the specification. Applicant respectfully contends that at least as amended, that claim 49 is patentable.

First, claim 49 recites a particular order. Similar to claims 2 and 35, Applicant respectfully contends that there is no motivation or suggestion to combine the cited references, Ting and Michener, in any particular order, let alone the order specified in claim 49.

Second, Applicant respectfully contends that besides the order limitation, that claim 49 also has other limitations that are not anticipated or obvious. For example, claim 49 recites "encrypting the session packet utilizing the computing device encryption component and transmitting the encrypted session packet that includes the session encryption key to the biometric device." Very generally speaking, this limitation is reciting a sort of dual layer of encryption. An encryption key is being encrypted by the computing device and being sent to the biometric device. The cited references do not disclose this limitation. The references only report some uses of a single layer of encryption. This limitation would also not be obvious because the references do not provide any suggestion or motivation to modify the limited single layer encryption that they disclose.

For at least the reasons discussed above, Applicant respectfully contends that claim 49 is patentable, and respectfully requests that the rejection be withdrawn.

Claims 50 and 51:

Claims 50 and 51 are new claims that are dependent on claim 49. Both are supported by the application as originally filed such as in the specification from page 17, line 24, to page 18, line 10. Applicant respectfully contends that they are allowable at least based on their dependence upon patentable independent claim 49. Applicant also respectfully contends that they are allowable based on the merits of their own limitations. Claims 50 and 51 recite PKI key pair. As discussed in regards to claim 49, a sort of dual layer of encryption is not anticipated or obvious by the cited references. Applicant clearly does not think that any particular type of encryption used in a dual layer system is anticipated or obvious.
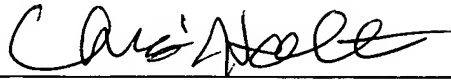
Conclusion

It is respectfully submitted that claims 1-2, 35, and 49-51 are patentably distinguishable from the Ting and Michener references considered independently or in combination. It is also respectfully submitted that claims 3-10, 12, 14-16, 19-22, 36-37, 39, and 41-48 are patentable at least based on their dependence upon patentable independent claims. Accordingly, consideration and allowance of all pending claims are respectfully solicited. The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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